

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Military Affairs and Domestic Security Committee

BILL: SB 214

INTRODUCER: Senator Baker

SUBJECT: Hurricane Preparedness/Sales Tax Exemption

DATE: February 9, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton	MS	Favorable
2.	_____	_____	FT	_____
3.	_____	_____	WPSC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 214 provides for a sales tax exemption period for the purchase of items typically associated with hurricane preparedness and for the purchase of certain items used to protect a structure from possible damage resulting from a hurricane or tropical storm. This bill specifies that these items will be exempt from sales tax for a period of 12 days beginning on June 1, 2009.

The bill appropriates \$311,183 from the General Revenue Fund to the Department of Revenue in Fiscal Year 2008-2009 to administer the exemption.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Pursuant to ch. 212, F. S., the State of Florida levies a six percent sales and use tax on most sales of tangible personal property and a limited number of services. Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by the chapter. The statutes currently provide more than 200 non-service exemptions.¹ Exemptions generally take the form of specifically exempted items, items which are exempted when used for particular purposes, and exempt purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum a local government may levy in total is 2.5 percent.

¹ 2008 Florida Tax Handbook, <http://edr.state.fl.us/reports/taxhandbooks/taxhandbook2008.pdf>.

Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions “subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions” by ch. 212, F.S., and on communications services by ch. 202, F.S. However, the surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service. As of November 4, 2008, fifty-nine counties levied at least one discretionary sales surtax.²

The Florida Office of Insurance Regulation estimated the expected gross probable loss for the four major hurricanes that struck Florida in 2004 to be \$25.1 billion.³ The estimate for 2005 was \$10.8 billion. While it is impossible to estimate how much additional damage was averted by citizens’ hurricane preparedness during the 2005 hurricane season, the Division of Emergency Management routinely recommends procuring materials to protect structures and for use in making emergency repairs. The division also recommends having such items as portable radios, flashlights, sufficient batteries to power them for two weeks, first aid kits, and containers for drinking water on hand for storm events.

III. Effect of Proposed Changes:

Senate Bill 214 creates an unnumbered section of Florida Statutes to establish a sales tax exemption for specified items related to hurricane preparedness during a period of 12 consecutive days beginning on June 1, 2009. The timing of this period coincides with the traditional start of hurricane season. The specified items are:

- a) Any portable, self-powered light source selling for \$20 or less;
- b) Any portable self-powered radio, two-way radio, or weather-band radio selling for \$75 or less;
- c) Any tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- d) Any ground anchor system or tie-down kit selling for \$50 or less;
- e) Any gas or diesel fuel tank selling for \$25 or less;
- f) Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile or boat batteries, selling for \$30 or less;
- g) Any cell phone battery selling for \$60 or less or any cell phone charger selling for \$40 or less;
- h) Any non-electric food-storage cooler selling for \$30 or less;
- i) Any portable generator used to provide light, communications, or preserve food in the event of a power outage selling for \$1,000 or less;
- j) Any storm shutter device selling for \$200 or less (“storm shutter device” is defined as materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms);
- k) Any carbon monoxide detector selling for \$75 or less;
- l) Any reusable ice selling for \$10 or less; or
- m) Any single product consisting of two or more of the items listed in paragraphs (a) – (l) selling for \$75 or less.

² Florida Department of Revenue Form DR-15DSS, *Discretionary Sales Surtax Information*, <http://dor.myflorida.com/dor/forms/2009/dr15dss.pdf>.

³ Florida Office of Insurance Regulation, *Hurricane Summary Data*, August, 2006.

The bill provides that the exemptions do not apply to sales made within a public lodging establishment, an airport, or a theme park or entertainment complex as defined in Florida Statutes.

This bill authorizes the Department of Revenue to adopt emergency rules to implement the provisions of the bill. Florida Statutes authorize the adoption of emergency rules pertaining to the public health, safety, or welfare when required. Such rules may take effect immediately upon publication and may not exceed a period longer than 90 days.⁴ The Department of Revenue states that no rulemaking was required to administer similar tax exemption periods for such items in 2005, 2006, and 2007.⁵

This bill appropriates \$311,183 from the General Revenue Fund in Fiscal Year 2008-2009 to the Department of Revenue for administration of the tax exemption. The department has determined that it can administer the exemption at a cost of \$308,810.⁶

This bill provides that the act shall take effect upon becoming a law.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(b), Art. VII of the State Constitution provides that, except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists on February 1, 1989.

The bill provides for a sales tax exemption that would reduce the municipalities' and counties' sales tax collections, thereby reducing their revenue-raising authority. Because the impact on local government revenues is estimated to exceed a generally accepted threshold of \$1.8 million in the aggregate, this bill may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴ Section 120.51(4), F.S.

⁵ Florida Department of Revenue 2009 Bill Analysis for Senate Bill 214.

⁶ *Id.*

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

This bill is awaiting consideration by the Revenue Estimating Conference concerning its estimated fiscal impact on state and local revenues for Fiscal Year 2008-2009. However, a virtually identical bill was considered by the Conference on February 1, 2008 for Fiscal Year 2007–2008. The Conference estimated a reduction of \$15.1 million in total revenues, including a \$12.3 million loss to the General Revenue Fund and a \$2.8 million loss in local government revenues (revenue sharing, local government half cent sales tax, and local option sales taxes).

B. Private Sector Impact:

During the specified period, hurricane preparedness items can be purchased for 6 percent to 8.5 percent less, depending on the local option sales surtax rate. The timing of the tax-free period will allow Floridians to save money and be encouraged to prepare themselves prior to the usual heightened tropical storm and hurricane threat period.

C. Government Sector Impact:

The department is authorized to adopt emergency rules to carry out the provisions of this bill and is appropriated \$311,183 in Fiscal Year 2008-2009 from the General Revenue Fund for administrative purposes. The department estimates that it can administer the exemption for the sum of \$308,810.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.